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A BILL FOR AN ACT

A BILL FOR AN ACT RELATING TO FIREWORKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purposes of this bill are to strengthen and
2 close the loopholes that allow for violation of the fireworks
3 law and to conform language relating to fireworks to federal
4 standards.

5 SECTION 2. Section 132D-2, Hawaii Revised Statutes, is
6 amended by adding new definitions to be appropriately inserted
7 and to read as follows:

8 "Arial devices" means any firework containing 130 mg or
9 less of explosive material, which produces an audible or visible
10 effect and which is designed to rise into the air and explode or
11 detonate in the air or to fly about above the ground and which is
12 prohibited for use by any person who does not have a permit for
13 display issued by a county under section 132D-16. "Arial
14 devices" are classified as fireworks UN 0336 and UN 0337 by the
15 United States department of transportation. At 49 CFR and
16 include firework items commonly known as bottle rockets, sky
17 rockets, missile-type rockets, helicopters, torpedoes, daygo
18 bombs, roman candles, flying pigs, and jumping jacks, which move
19 about the ground farther than inside a circle with a radius of

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1 twelve as measured from the point where the item was placed and
2 ignited, Arial shells, and mines.

3 "Articles pyrotechnic" means pyrotechnic devices for
4 professional use similar to consumer fireworks in chemical
5 composition and construction but not intended for consumer use
6 which meet the weight limits for consumer fireworks but which are
7 not labeled as such and which are classified as UN 0431 or UN
8 0432 by the United States Department of Transportation."

9 SECTION 3. Section 132D-2, Hawaii Revised Statutes, is
10 amended by amending the definitions of "common fireworks",
11 "fireworks", "special fireworks", and "public display permit", to
12 read as follows:

13 "[~~Common~~Consumer fireworks" means any firework designed
14 primarily for retail sale to the public during [~~prescribed~~
15 authorized dates and times and which produces visible or audible
16 effects [~~through~~ by combustion and which is [~~classified as~~
17 consumer fireworks by the United States Bureau of Explosives or
18 contained in the regulations of the United States Department of
19 Transportation and designated as UN0336 1.4G.] designed to remain
20 on or near the ground and which , while stationary or spinning
21 rapidly on or near the ground, emits smoke, a shower of colored
22 sparks, whistling effects, flitter sparks or balls of colored
23 sparks and combination items which contain one or more of these
24 effects. "Consumer fireworks" must comply with the construction,
25 chemical composition and labeling regulations of the United

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1 States consumer product safety commission as set forth in Title
2 16 C.F.R. and fireworks classified as UN 0336 and UN 0337 by the
3 United States Department of Transportation at 49 CFR. "consumer
4 fireworks" include firework items commonly known as fireworks
5 which are single paper cylinders not exceeding one and one-half
6 inches in length excluding the fuse and one quarter of an inch in
7 diameter and contain a charge of not more than fifty milligrams
8 of pyrotechnic composition, snakes, sparklers, fountains, and
9 cylindrical or cone fountains which emit effects up to a height
10 not greater than twelve feet above the ground, illuminating
11 torches, bamboo canons, whistles, toy smoke devices, wheels, and
12 ground spinners which when ignited remain within a circle with a
13 radius of twelve feet as measured from the point where the item
14 was placed and ignited, novelty or trick items, combination
15 items, and other fireworks of like construction which are
16 designed to produce the same or similar effects.

17 "Fireworks" means any combustible or explosive composition,
18 or any substance or combination of substances, or article
19 prepared for the purpose of producing a visible or audible effect
20 by combustion, explosion, deflagration or detonation and
21 ~~[classified as]~~ which meets the definition of aerial devices,
22 articles pyrotechnic, [common] consumer or [special] display
23 fireworks by the [United States Bureau of Explosives or] as
24 defined by this section and contained in the regulations of the
25 United States Department of Transportation ~~[and designated as UN~~

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1 ~~0335 1.3G or UN 0336 1.4G~~ at 49 CFR. The term "fireworks" shall
2 not include any explosives and pyrotechnics regulated under
3 chapter 396 or automotive safety flares, nor shall the term be
4 construed to include toy pistols, toy cannons, toy guns, party
5 poppers, pop-its or other devices which contain twenty-five
6 hundredths of a grain or less of explosives substance. [~~The term~~
7 ~~"fireworks" also shall not include any explosives and~~
8 ~~pyrotechnics regulated under chapter 396.~~]

9 "[~~Special~~] Display fireworks" means any firework designed
10 primarily for exhibition display by producing visible or audible
11 effects and classified as [~~special~~] display fireworks by the
12 [~~United States Bureau of Explosives~~] or contained in the
13 regulations of the United States Department of Transportation and
14 designated as UN 0333, UN 0335 or UN0335 1.3G and includes but is
15 not limited to, salutes containing more than 2 grams (130 mg) of
16 explosive materials, aerial shells containing more than 40 grams
17 of pyrotechnic compositions, and other display pieces which
18 exceed the limits of explosives materials for classification as
19 "consumer fireworks." [~~and designated as UN0335 1.3G~~] This term
20 also includes fused set pieces containing components which
21 together exceed 50 mg of salute powder. The use of display
22 fireworks is [~~and which are~~] prohibited for use by any person who
23 does not have a display permit issued by a county."

24 "[~~Public~~] Display" means [~~public~~] an exhibition and the use
25 of fireworks, articles pyrotechnic or both, for commercial

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1 activities (including such activities as movie or television
2 production)."

3 SECTION 4. Section 132D-2, Hawaii Revised Statutes, is
4 amended by deleting the definitions "aerial common fireworks"
5 and "non-aerial common fireworks".

6 ~~["Aerial common fireworks" means any firework, classified~~
7 ~~as common fireworks by the United States Bureau of Explosives or~~
8 ~~contained in the regulations of the United States Department of~~
9 ~~Transportation and designated as UN 0336 1.4G, which produces an~~
10 ~~audible or visible effect and which is designed to rise into the~~
11 ~~air and explode or detonate in the air or to fly about above the~~
12 ~~ground and which is prohibited for use by any person who does~~
13 ~~not have a permit for public display issued by a county under~~
14 ~~section 132D-16. "Aerial common fireworks" include firework~~
15 ~~items commonly known as bottle rockets, sky rockets, missile-~~
16 ~~type rockets, helicopters, torpedoes, daygo bombs, roman~~
17 ~~candles, flying pigs, and jumping jacks, which move about the~~
18 ~~ground farther than inside a circle with a radius of twelve feet~~
19 ~~as measured from the point where the item was placed and~~
20 ~~ignited, aerial shells, and mines.}]~~

21 ~~["Non-aerial common fireworks" means any firework,~~
22 ~~classified as common fireworks by the United States Bureau of~~
23 ~~Explosives or contained in the regulations of the United States~~

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1 ~~Department of Transportation and designated as UN 0336 1.4G,~~
2 ~~which produces an audible or visible effect and which is~~
3 ~~designed to remain on or near the ground and which, while~~
4 ~~stationary or spinning rapidly on or near the ground, emits~~
5 ~~smoke, a shower of colored sparks, whistling effects, flutter~~
6 ~~sparks or balls of colored sparks and combination items which~~
7 ~~contain one or more of these effects. "Non-aerial common~~
8 ~~fireworks" include firework items commonly known as firecrackers~~
9 ~~which are single paper cylinders not exceeding one and one half~~
10 ~~inches in length excluding the fuse and one quarter of an inch~~
11 ~~in diameter containing a charge of not more than fifty~~
12 ~~milligrams of pyrotechnic composition, snakes, sparklers,~~
13 ~~fountains, and cylindrical or cone fountains which emit effects~~
14 ~~up to a height not greater than twelve feet above the ground,~~
15 ~~illuminating torches, bamboo canons, whistles, toy smoke~~
16 ~~devices, wheels, and ground spinners which when ignited remain~~
17 ~~within a circle with a radius of twelve feet as measured from~~
18 ~~the point where the item was placed and ignited, novelty or~~
19 ~~trick items, combination items, and other fireworks of like~~
20 ~~construction which are designed to produce the same or similar~~
21 ~~effects.]~~

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SECTION 3. Section 132D-7, Hawaii Revised Statutes, is amended to read as follows:

"§132D-7 License or permit required. A person shall not:

(1) Import, store, offer to sell, or sell, at wholesale or retail, aerial [~~common fireworks~~] devices, [~~special~~] display fireworks or article pyrotechnic, or [~~non-aerial common~~] consumer fireworks, unless the person has a valid license issued by the county;

(2) Possess aerial [~~common fireworks~~] devices [~~or~~] display fireworks or articles pyrotechnic without a valid license to import, store, or sell aerial [~~common fireworks~~] devices, [~~or special~~] display fireworks or articles pyrotechnic, or a valid permit as provided for in this chapter; [~~or~~]

(3) Purchase [~~non-aerial common~~] consumer fireworks with a permit under section 132D-10 more than five calendar days before the applicable time period for use prescribed in section 132D-3 in the county that issued the permit[~~;~~]; or

(4) Sell consumer fireworks under section 132D-10 after 12:00 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's Day and 8:00 p.m. on the Fourth July."

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SECTION 4. Section 132D-8, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) It shall be unlawful for any person, other than a wholesaler who is selling or transferring fireworks or articles pyrotechnic to a licensed retailer, to sell or offer to sell, exchange for consideration, give, transfer, or donate any fireworks or articles pyrotechnic at any time to any person who does not present a permit duly issued as required by section 132D-10 or 132D-16. The permit shall be signed by the seller or transferor at the time of sale or transfer of the fireworks or articles pyrotechnic, and the seller or transferor shall indicate on the permit the amount and type of fireworks or articles pyrotechnic sold or transferred. No person shall sell or deliver fireworks to any permittee in any amount in excess of the amount specified in the permit, less the amount shown on the permit previously to have been purchased; provided that no fireworks shall be sold to a permittee holding a permit issued for purposes of section 132D-3, more than five calendar days before the applicable time period under section 132D-3.

(d) Aerial [~~common fireworks~~] devices, [~~special~~] display fireworks or articles pyrotechnic, [~~or both~~] shall only be sold or transferred by a wholesaler to a person with a valid permit

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1 under sections 132D-10 and 132D-16. No person with a valid
2 permit under sections 132D-10 and 132D-16 shall sell or transfer
3 aerial [~~common fireworks~~] devices, [~~or special~~] display
4 fireworks, or [~~both~~] articles pyrotechnic to any other person."

5 SECTION 5. Section 132D-16, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Any person desiring to set off, ignite, or discharge
8 aerial [~~common fireworks~~] devices, [~~special~~] display fireworks
9 or [~~and~~] articles pyrotechnic [~~fireworks, or both~~] for a
10 [~~public~~] display shall apply to, and obtain a permit as required
11 by section 132D-10, from the county not less than twenty days
12 before the date of the display."

13 SECTION 6. Section 132D-3, Hawaii Revise Statutes, is
14 amended to read as follows:

15 "**§132D-3 Permissible uses of non-aerial [~~common~~] consumer**
16 **fireworks.** Non-aerial common fireworks may be set off, ignited,
17 discharged, or otherwise caused to explode within the State
18 only:

19 (1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New
20 Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New
21 Year's Day; and from 1:00 p.m. to 9:00 p.m. on the
22 Fourth of July; or

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1 (2) From 9:00 a.m. to 9:00 p.m. as allowed by permit
2 pursuant to section 132D-10 if the proposed cultural
3 use is to occur at any time other than during the
4 periods prescribed in paragraph (1);

5 provided that the purchase of not more than 5,000 individual
6 non-aerial [~~common~~] consumer fireworks commonly known as
7 firecrackers shall be allowed under each permit."

8 SECTION 7. Section 132D-4, Hawaii Revise Statutes, is
9 amended to read as follows:

10 **"§132D-4 Permissible uses of [~~special~~] display fireworks**
11 **and aerial common fireworks.** [~~Special~~] display fireworks and
12 aerial [~~common~~] consumer fireworks may be purchased, set off,
13 ignited, or otherwise caused to explode in the State only if for
14 public display and permitted in writing pursuant to sections
15 132D-10 and 132D-16."

16 SECTION 8. Section 132D-8.5, Hawaii Revise Statutes, is
17 amended to read as follows:

18 **"§132D-8.5 Importation of aerial [~~common fireworks~~]**
19 **devices, [~~special~~] display fireworks, or articles pyrotechnic**
20 **[~~or both~~], for [~~public~~] display.** Aerial [~~common fireworks~~]
21 **devices, [~~special~~] display fireworks, or articles pyrotechnic,**
22 **[~~or both~~]** shall only be imported and stored, if necessary, in
23 an amount sufficient for an anticipated three-month inventory;

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1 provided that if a licensee under section 132D-7 provides aerial
2 [~~common fireworks~~] devices, [~~special~~] display fireworks, or
3 articles pyrotechnic [~~or both~~] for public displays as allowed
4 under section 132D-16 more than once a month, the licensee may
5 import or store, if necessary, sufficient aerial [~~common~~
6 ~~fireworks~~] device, [~~special~~] display fireworks, or articles
7 pyrotechnic [~~both~~] for a six-month inventory."

8 SECTION 9. Section 132D-8.6, Hawaii Revise Statutes, is
9 amended to read as follows:

10 "**§132D-8.6 Requirements of licensee.** (a) Any person who
11 has obtained a license under section 132D-7 and ships fireworks
12 or articles pyrotechnic into the State shall:

13 (1) Clearly designate the types of fireworks or articles
14 pyrotechnic in each shipment on the bill of lading or
15 shipping manifest with specificity;

16 (2) Declare on the bill of lading or shipping manifest the
17 gross weight of aerial [~~common fireworks~~] devices,
18 [~~non-aerial common~~] consumer fireworks, [~~and special~~]
19 display fireworks or articles pyrotechnic to be
20 imported in each shipment and the location of the
21 storage facility, if applicable, in which the
22 fireworks or articles pyrotechnic are to be stored;

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(3) Prior to shipment and when booking each shipment of fireworks or articles pyrotechnic, notify the appropriate county official as determined by the county regarding whether the shipment will be distributed from:

(A) Pier to pier;

(B) Pier to warehouse or storage facility; or

(C) Pier to redistribution; and

(4) At the time shipping is booked, the importer or consignee shall notify the appropriate county official as determined by the county in writing of the expected shipment's landing date.

(b) The fire department of a county, in which a shipment of fireworks or articles pyrotechnic has landed and becomes subject to the jurisdiction of the fire department, shall be allowed to inspect, if it chooses, any shipment declared on the shipping manifest as fireworks or articles pyrotechnic.

(c) The facility in which fireworks or articles pyrotechnic are to be stored must:

(1) Have received approval fifteen days prior to the shipment's arrival from the appropriate county fire department; and

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1 (2) Meet all state and county fire and safety codes.

2 (d) Any fireworks or articles pyrotechnic landed in the
3 State shall be subject to seizure and forfeiture if:

4 (1) The importer or consignee does not have in the
5 importer's or consignee's possession a valid license
6 to import fireworks or articles pyrotechnic under
7 section 132D-7;

8 (2) The consignee does not have a valid license to store
9 fireworks or articles pyrotechnic under section 132D-
10 7; or

11 (3) The fireworks or articles pyrotechnic have not been
12 declared or have been misdeclared in violation of
13 [subsection] (a).

14 (e) No person holding a retailer license to sell [~~non-~~
15 ~~aerial-common~~] consumer fireworks shall be allowed to sell [~~non-~~
16 ~~aerial-common~~] consumer fireworks commonly known as firecrackers
17 in a packet size larger than 5,000 individual units. Any person
18 violating this subsection shall be guilty of a misdemeanor.

19 (f) Any person violating subsections (a), (c), or (d)
20 shall be subject to the following for shipments of fireworks or
21 articles pyrotechnic of:

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- 1 (1) Twenty-five pounds or less gross weight shall be a
2 petty misdemeanor;
3 (2) Over twenty-five pounds to three hundred pounds gross
4 weight shall be a misdemeanor;
5 (3) Over three hundred pounds to ten thousand pounds gross
6 weight shall be a class C felony; and
7 (4) More than ten thousand pounds gross weight shall be a
8 class B felony."

9 SECTION 10. Section 132D-9, Hawaii Revise Statutes, is
10 amended to read as follows:

11 "**§132D-9 Application for permit.** The permit required
12 under section 132D-10 or 132D-16 shall be issued by the county
13 and be nontransferable. The county shall issue all permits for
14 which complete applications have been submitted and which
15 contain only correct information. The permit shall specify the
16 date of issuance or effect and the date of expiration but in no
17 case for a period to exceed one year. The permit for the
18 purchase of [~~non-aerial common~~] consumer fireworks for the
19 purposes of section 132D-3 shall not allow purchase for more
20 than one event as set forth in section 132D-3. The application
21 shall be made on a form setting forth the dates for which the
22 permit shall be valid, the location where the permitted activity
23 is to occur, and the name of the proprietor or, if a

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1 partnership, the name of the partnership and the names of all
2 partners or, if a corporation, the name of the corporation and
3 the names of its officers. The permit application may be denied
4 if the proposed use of fireworks or articles pyrotechnic
5 presents a substantial inconvenience to the public or presents
6 an unreasonable fire or safety hazard. Any permit issued
7 pursuant to this chapter shall be prominently displayed in
8 public view at the site."

9 SECTION 11. Section 132D-10, Hawaii Revise Statutes, is
10 amended to read as follows:

11 **§132D-10 Permits.** A permit shall be required for the
12 purchase or use of:

- 13 (1) Any [~~non-aerial common~~] consumer fireworks commonly
14 known as firecrackers upon payment of a fee of \$25;
15 and
16 (2) Any aerial [~~common fireworks~~] devices and any
17 [~~special~~] display fireworks or articles pyrotechnic
18 for the purposes of section 132D-16.

19 **§132D-14 Penalty.** (a) Any person:

- 20 (1) Importing aerial [~~common fireworks~~] devices, [~~or~~
21 ~~special~~] display fireworks, or articles pyrotechnic
22 without having a valid license under section 132D-7
23 shall be guilty of a class C felony;

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(2) Purchasing, possessing, setting off, igniting, or discharging aerial [~~common fireworks~~] devices, or [~~special~~] display fireworks, or articles pyrotechnic without a valid permit under sections 132D-10 and 132D-16, or storing, selling, or possessing aerial [~~common fireworks~~] devices, [~~or special~~] display fireworks or articles pyrotechnic without a valid license under section 132D-7:

(A) If the total weight of the aerial [~~common fireworks~~] device or [~~special~~] display fireworks, or articles pyrotechnic is twenty-five pounds or more, shall be guilty of a class C felony; or

(B) If the total weight of the aerial [~~common consumer~~] fireworks or [~~special~~] display fireworks is less than twenty-five pounds, shall be guilty of a misdemeanor.

(3) Who transfers or sells aerial [~~common fireworks~~] devices, [~~or special~~] display fireworks, or articles pyrotechnic to a person who does not have a valid permit under sections 132D-10 and 132D-16, shall be guilty of a class C felony; and

(c) The court shall collect the fines imposed in subsections (a) and (b) for violating this chapter and of the fines collected shall pay twenty per cent to the State and eighty per cent to the county in which the fine was imposed which shall be expended by the county for law enforcement purposes."

18 SECTION 13. This Act shall take effect on July 1, 2005.

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